

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7633

Petition of Southern Vermont Cable Company to renew its)
Certificate of Public Good for a cable television system)
located in the Towns of Newfane, Putney, Dummerston,)
Townshend, Brattleboro, Brookline, Dover, Jamaica,)
Marlboro, Wardsboro, and Westminster for a period of)
eleven years)

Order entered: 6/30/2011

I. INTRODUCTION AND PROCEDURAL HISTORY

On July 9, 2010, Southern Vermont Cable Company ("Southern Vermont") filed a petition with the Public Service Board ("Board") to renew the Certificate of Public Good ("CPG") that it holds to serve the Towns of Newfane, Putney, Dummerston, Townshend, Brattleboro, Brookline, Dover, Jamaica, Marlboro, Wardsboro, and Westminster, Vermont, for a period of eleven years. Since the existing CPG was due to expire on July 13, 2010, the Board extended the CPG until January 31, 2011.

A prehearing conference was held on July 29, 2010. On August 20, 2010, Brattleboro Community Television ("BCTV") moved to intervene, and the Hearing Officer granted its motion on September 9, 2010.

A public hearing was held on September 16, 2010, at the Dummerston Historical Society, Dummerston Center, Vermont. The Department of Public Service ("Department") conducted a Community Needs Assessment, as required by Board Rule 8.230 and submitted prefiled testimony discussing the results of its assessment on October 29, 2010. On October 29, 2010, BCTV filed prefiled testimony.

On December 17, 2010, Southern Vermont filed a motion to amend its petition to renew, as well as a request to further extend the existing CPG. In response, on January 28, 2011, the Board extended the term of the existing CPG to July 31, 2011.

Southern Vermont, the Department, and BCTV entered into a Memorandum of Understanding ("MOU"), filed on April 29, 2011, resolving all issues in this case. The MOU provided that the Board should issue a renewed CPG without further proceedings, that all the prefiled testimony and exhibits of Southern Vermont, BCTV, and the Department should be admitted into the record, and that the parties waived circulation of a proposal for decision if the proposal accepts the Findings of Fact, Order, and CPG attached to the MOU. My proposed decision incorporates those terms without material change.

Based upon substantial and uncontested evidence of record, I make the following report to the Board.

II. FINDINGS OF FACT

1. Southern Vermont is a Vermont corporation with a registered office in Bondville, Vermont, which operates a cable television system. Prefiled Testimony of Ernest Scialabba ("Scialabba pf.") at 1.

2. In 1988, Southern Vermont received a CPG to serve customers in the Towns of Newfane, Putney, and Dummerston, Vermont, in Dockets 5280 and 5861. Southern Vermont's CPG was renewed by the Board in Docket 6239, Order of July 13, 1999. In 2001, Southern Vermont purchased the assets of East Dummerston Cable Television, and its CPG was amended to include the towns of Brattleboro, Brookline, Dover, Jamaica, Marlboro, Wardsboro, and Westminster. (Docket No. 6497, Order issued 7/11/01.) Also in 2001, Southern Vermont acquired the assets of Townshend TV Club, Inc., and its CPG was again amended to include the towns of Townshend and Jamaica. (Docket No. 6529, Order issued 9/21/01.) In these CPG amendments the Board stated that service to the towns that were added should be provided in accordance with the company's line extension tariff and that Southern Vermont is not required to overbuild any existing cable system. Southern Vermont presently serves approximately 2,200 subscribers, all within Windham County. Scialabba pf. at 1–2.

3. Southern Vermont has been in business for over thirty years and its revenues have steadily increased over time. Southern Vermont is a financially sound and stable company. Scialabba pf. at 2.

4. Southern Vermont recently upgraded its system and now offers basic, standard, and premium cable television channels, full digital and HD service, and internet and telephone service. Scialabba pf. at 3.

5. At a minimum Southern Vermont will meet the build-out requirements in its line extension tariff, which was recently revised to reflect changes in Board Rule 8.313. Scialabba pf. at 3.

6. Southern Vermont has competent staff sufficient to provide adequate and prompt service and to respond quickly and comprehensively to customer and Department of Public Service complaints and problems. Scialabba pf. at 3 and 6.

7. Southern Vermont sends an annual notice to its customers that sets forth the rules for line extensions, disconnections, customer deposits, and billing practices. Those policies comply with applicable Board rules. Scialabba pf. at 4.

8. Southern Vermont provides adequate and technically sound facilities and equipment and signal quality. Specifically, Southern Vermont uses a fiber-coaxial (750 mhz) network. Scialabba pf. at 4.

9. Southern Vermont has designated adequate channel capacity and appropriate facilities for public, educational, and governmental access (PEG). Scialabba pf. at 5.

10. Southern Vermont provides a reasonably broad range of PEG programming. Southern Vermont uses BCTV in Brattleboro, Vermont, for PEG access. Scialabba pf. at 5.

11. Southern Vermont and BCTV have entered into an agreement dated February 28, 2011, in which Southern Vermont has expanded its contractual relationship with BCTV and designated BCTV as the Access Management Organization for the serviceable portions of the towns cabled by Southern Vermont and any other towns that may be cabled by Southern Vermont during the term of this agreement. Letter submitted by Joslyn Wilschek dated March 2, 2011.

12. The agreement between Southern Vermont and BCTV includes the following terms:

- a. It has a term of eight years, until May 31, 2019.
- b. For the first five years, Southern Vermont will pay 1.5% of gross revenues, payable quarterly, to BCTV for PEG funding. In the final three years Southern Vermont will pay 2% for PEG funding.

- c. Southern Vermont will carry channels 8 and 10, both of which are produced by BCTV.
- d. Carriage of the two PEG channels requires an agreement with Comcast, which the parties agree to pursue with good faith effort.
- e. The parties undertake mutual duties as described in Board Rule 8.400 *et seq.*

Agreement filed March 2, 2011.

13. Southern Vermont provides adequate and technically sound facilities, equipment, and signal quality. Scialabba pf. at 5.

14. Southern Vermont does not discriminate among customers of basic service, because all customers of basic service receive the same service and pay the same rate. Scialabba pf. at 5.

15. Southern Vermont serves in a competitive market as customers have access to satellite TV services. Scialabba pf. at 5.

16. Southern Vermont provides a reasonable quality of service for both basic and premium services. Scialabba pf. at 6.

17. Installation and construction of Southern Vermont's system conform to all applicable laws and electric codes. Scialabba pf. at 6.

18. Southern Vermont's office is open Monday–Friday from 9 a.m. to 5 p.m., and provides a toll-free number for receipt of customer complaints and service requests. Scialabba pf. at 6.

19. Southern Vermont has reasonable rules and policies for line extensions, disconnections, customer deposits, and billing practices, and those rules comply with applicable Board rules. Scialabba pf. at 7.

III. CONCLUSION

Based on the parties' Memorandum of Understanding and my review of the record, I recommend that the Board renew the CPG held by Southern Vermont to serve Newfane, Putney, Dummerston, Townshend, Brattleboro, Brookline, Dover, Jamaica, Marlboro, Wardsboro, and Westminster, Vermont, according to the terms in the proposed CPG, which are consonant with those proposed by the parties.

The foregoing is hereby reported to the Public Service Board in accordance with the provisions of 30 V.S.A. § 8.

Service of this Proposal for Decision on all parties to this proceeding pursuant to 3 V.S.A. § 811 was waived conditioned on the Proposal for Decision and CPG being substantially identical and without material or substantial change from that which was submitted jointly by the Department, Southern Vermont, and BCTV. This Proposal and CPG are substantially identical to and without material or substantial change from that joint submission.

Dated at Montpelier, Vermont, this 28th day of June, 2011.

s/John P. Bentley

John P. Bentley, Esq.
Hearing Officer

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings and Conclusions of the Hearing Officer are adopted.
2. A renewed Certificate of Public Good shall be issued to Southern Vermont Cable Company to provide service to the Towns of Newfane, Putney, Dummerston, Townshend, Brattleboro, Brookline, Dover, Jamaica, Marlboro, Wardsboro, and Westminster, Vermont.

Dated at Montpelier, Vermont, this 30th day of June, 2011.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
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)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 30, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.